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SIPDIS

SENSITIVE
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TREASURY FOR JAMES FREIS AND MICHAEL JACOBSON

E.O. 12958: N/A

TAGS: [EFIN](#) [ECON](#) [PTER](#) [KTFN](#) [PO](#)

SUBJECT: PORTUGAL: SUPPORTIVE OF TFTP AND SWIFT "INFORMED
CONSENT"

REF: A. 2006 STATE 194473

[1](#)B. TREASURY DE RUEATRS #0450 0101424

[1](#)1. (SBU) In response to Embassy outreach on the Terrorist Finance Tracking Program (TFTP) and SWIFT per reftel a, Ministry of Finance Chief of Staff Goncalo Castilho dos Santos responded via a Jan 10 letter acknowledging the program's important role in fighting terrorist finance, encouraging continued US-EU dialogue, and supporting "informed consent" for SWIFT clients. Below is an informal translation of the body of the letter:

Begin Text:

Although the EU is presently evaluating (TFTP) conformity with national and EU Data Privacy legislation, the Portuguese Government shares the understanding that the program is an important instrument for national and international security in the fight against terrorist financing, thus it should continue to receive the support of the international community.

In order to find a balanced solution to reconcile the legitimate and vital objectives of the fight against terrorist financing and the rights of citizens to data privacy, it is important to strengthen the constructive dialogue between EU member states and the U.S.

Therefore, it is desirable for SWIFT to develop transparent and informative procedures to be rendered to bank clients whenever their data is provided to U.S. authorities, as stipulated in Directive 95/46/EC - regarding the protection of individuals as it pertains to the processing of personal data and on the free movement of such data - thereby allowing for the resolution of issues raised by the EU members' National Commissions responsible for personal data protection.

[1](#)2. (SBU) Separately, Ministry of Justice Chief of Staff Filipe Costa, though not familiar with the SWIFT aspect of the issue, underscored to post that the Government has the authority, with a court order, to examine an individual's bank records, particularly in the case of fraud and tax evasion. He told us his Ministry is considering strengthening the authority of law enforcement bodies to gain access to the bank accounts of individuals suspected of a range of criminal activities.

[1](#)3. (SBU) Per post's most recent International Narcotics Control Strategy Report - Part II submission, "Portugal has a comprehensive anti-money laundering regime that criminalizes the laundering of proceeds of serious offenses, including terrorism, arms trafficking, kidnapping and corruption. Financial and non-financial institutions have a mandatory

requirement to report all suspicious transactions to the
Public Prosecutor regardless of threshold amount....Law
5/2002, Article 2 waives banking secrecy in cases related to
organized crime and financial crime."
Hoffman